



## UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BOARD OF PATENT APPEALS AND INTERFERENCES  
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Judge Mark Nagumo  
Telephone: (703) 308-9797  
Facsimile: (703) 305-0942

MAILED

JUL 31 2002

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

Patentees: DEBOER

Application No.: 08/476,798, now Patent No.  
6,140,552, granted 10/31/01

Filed: 06/07/95

For: PRODUCTION OF RECOMBINANT POLYPEP-  
TIDES BY BOVINE SPECIES AND  
TRANSGENIC METHODS

Accorded benefit: Patent 5,633,076, granted  
05/27/97, based on application 08/154,019,  
filed 11/16/93

Applications 08/077,788, filed 06/05/93; 07/898,956,  
filed 06/15/92; 07/619,131, filed 11/27/90 and  
07/444,745, filed 12/01/89

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,004.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

  
MARK NAGUMO  
Administrative Patent Judge

Filed by: Mark Nagumo  
Administrative Patent Judge  
Box Interference  
Washington, D.C. 20231  
Tel: 703-308-9797  
Fax: 703-305-0942

Paper 1

Filed  
31 July 2002..

**MAILED**

UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 31 2002

BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

PAT. & T.M. OFFICE  
BOARD OF PATENT APPEALS  
AND INTERFERENCES

HERMAN A. DEBOER, REIN STRIJKER,  
HERBERT L. HEYNEKER, GERARD PLATENBURG, SANG HE LEE,  
FRANK PIEPER, and PAUL J.A. KRIMPENFORT,

Junior Party  
(Patent Nos. 5,741,957, 6,013,857, and 6,140,552),

v.

KATHERINE GORDON, SUZANNE GROET, LOTHAR HENNIGHAUSEN, and  
HEINER WESTPHAL,

Senior Party  
(Application 08/246,259).

Patent Interference 105,004

**NOTICE DECLARING INTERFERENCE**  
(37 CFR § 1.611)

**Part A. Declaration of interference**

An interference is declared (35 U.S.C. § 135(a)) between the  
above-identified parties.

Details of the application and patents, counts and claims  
designated as corresponding or as not corresponding to the counts  
appear in Parts E and F of this NOTICE DECLARING INTERFERENCE.

**Part B. Judge designated to handle the interference**

Administrative Patent Judge Mark Nagumo has been designated to handle the interference. 37 CFR § 1.610(a).

**Part C. Standing order**

A Trial Section STANDING ORDER accompanies this NOTICE DECLARING INTERFERENCE. The STANDING ORDER applies to this interference.

**Part D. Conference call to set dates**

A telephone conference call to set dates for taking action in the interference is scheduled for **1:30 p.m. on October 1, 2002** (the call will be initiated from the PTO).

No later than **two business days** prior to the conference call, each party shall file and serve by facsimile a list of the preliminary motions the party intends to file. See § 17 of the STANDING ORDER.

A copy of a "sample" order setting times for taking action during the preliminary motion phase of the interference accompanies this NOTICE DECLARING INTERFERENCE.

Counsel are encouraged to discuss the order prior to the conference call with the view to coming to some mutual agreement as to dates for taking action. A typical preliminary motion period lasts approximately nine (9) months. Counsel should be prepared to justify any request for a shorter or longer period.

**Part E. The parties involved in this interference are:**

Junior Party

Named inventors: Herman A. Deboer, Netherlands  
Rein Strijker, Netherlands  
Herbert L. Heyneker, USA  
Gerard Platenburg, Netherlands  
Sang He Lee, Netherlands  
Frank Pieper, Netherlands  
Paul J.A. Krimpenfort, Netherlands

Patent 1: 5,741,957 (filed June 5, 1995)

Title: Transgenic Bovine

Patent 2: 6,013,857 (filed June 5, 1995)

Title: Transgenic bovines and milk from  
transgenic bovines

Patent 3: 6,140,552 (filed June 7, 1995)

Title: Production of recombinant polypeptides  
by bovine species and transgenic methods

Assignee: Pharming B.V.

Accorded Benefit: December 1, 1989

(Patents 5,741,957, 6,013,857, are divisions, and 6,140,552 is a continuation, of application 08/154,019, now U.S. Pat. No. 5,633,076, which was filed on November 16, 1993, and which is a continuation-in-part (C-i-P) of application 08/077,788, now abandoned, which was filed on June 5, 1993, and which is a C-i-P of application 07/898,956, now abandoned, which was filed on June 15, 1992, and which is a C-i-P of (1) original application 07/444,745, now abandoned, which was filed on December 1, 1989, and (2) application 07/619,131, now abandoned, which was filed on November 27, 1990, and which is a C-i-P of original application 07/444,745, now abandoned, which was filed on December 1, 1989.)

Attorneys: See last page

Address: See last page

Senior Party

Named Inventors: Katherine Gordon, USA  
Suzanne Groet, USA  
Lothar Hennighausen, USA  
Heiner Westphal, USA

Application: 08/246,259

Title: Transgenic animals secreting desired  
proteins into milk

Assignee: Genzyme Corporation

Accorded Benefit: April 9, 1986  
(Application 08/246,259 was filed on May 19, 1994, and is a  
continuation of  
application 07/938,327, now abandoned, which is a  
continuation of  
application 07/441,785, now abandoned, which is a division  
of  
original application 06/849,815, filed on April 9, 1986, now  
abandoned.)

Attorneys: See last page

Address: See last page

**Part F. Count and claims of the parties**

Count 1

a transgenic bovine according to claim 7 of Deboer 6,140,552

or

a transgenic bovine according to claim 18 of Gordon,  
08/246,259.

The claims of the parties are:

Deboer 5,741,957: 1-36;  
Deboer 6,013,857: 1-22;  
Deboer 6,140,552: 1-7;  
Gordon 08/246,259: 18, 19, 21-24.

The claims of the parties which correspond to Count 1 are:

Deboer 5,741,957: 1-36;  
Deboer 6,013,857: 1-22;  
Deboer 6,140,552: 1-7;  
Gordon 08/246,259: 18, 19, 21-24.

The claims of the parties which do not correspond to Count 1  
are:

Deboer 5,741,957: none;  
Deboer 6,013,857: none;  
Deboer 6,140,552: none;  
Gordon 08/246,259: none.

**Part G. Heading to be used on papers**

The following heading shall be used on papers filed in the interference. See § 18 of the STANDING ORDER.

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Paper \_\_\_\_<sup>1</sup>

Filed on behalf of [name of party]

By: Name of lead counsel, Esq.

Name of backup counsel, Esq.

Street address

City, State, and Zip-Code

Tel:

Fax:

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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HERMAN A. DEBOER, REIN STRIJKER,  
HERBERT L. HEYNEKER, GERARD PLATENBURG, SANG HE LEE,  
FRANK PIEPER, and PAUL J.A. KRIMPENFORT

Junior Party  
(Patent Nos. 5,741,957, 6,013,857, and 6,140,552),

v.

KATHERINE GORDON, SUZANNE GROET, LOTHAR HENNIGHAUSEN, and  
HEINER WESTPHAL

Senior Party  
(Application 08/246,259).

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Patent Interference 105,004 (Nagumo)

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TITLE OF PAPER

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<sup>1</sup> Leave a blank line because the board assigns the paper number.

## **Part H. Summary of dates for taking action**

Times for taking action are set out in the following sections of the STANDING ORDER:

1.    **§ 7:** date for identifying lead and backup counsel.
2.    **§ 8:** date for identifying any real party in interest.
3.    **§ 9:** date for requesting copies of involved and benefit applications and patents.
4.    **§ 17:** date for filing list of proposed preliminary motions.
5.    **§ 19:** date for accomplishing certain discovery.
6.    **§ 20:** date for filing clean copy of claims.
7.    **§ 21:** date for filing clean copy of claims in cases with drawings and/or claims containing a means plus function limitation.
8.    **§ 23:** dates for filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions.
9.    **§ 33:** date for objecting to admissibility of evidence.
10.   **§ 34:** date for serving supplemental affidavits or evidence to respond to objection to admissibility of evidence.
11.   **§ 35:** dates when cross-examination can take place.
12.   **§ 45:** dates for taking action with respect to settlement discussions



**Part H. Summary of dates for taking action**

Times for taking action are set out in the following sections of the STANDING ORDER:

1.    § 7: date for identifying lead and backup counsel.
2.    § 8: date for identifying any real party in interest.
3.    § 9: date for requesting copies of involved and benefit applications and patents.
4.    § 17: date for filing list of proposed preliminary motions.
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7.    § 21: date for filing clean copy of claims in cases with drawings and/or claims containing a means plus function limitation.
8.    § 23: dates for filing oppositions to Rule 635 miscellaneous motions and dates for filing replies to oppositions.
9.    § 33: date for objecting to admissibility of evidence.
10.   § 34: date for serving supplemental affidavits or evidence to respond to objection to admissibility of evidence.
11.   § 35: dates when cross-examination can take place.
12.   § 45: dates for taking action with respect to settlement discussions

Part I. Order form for requesting file copies

FILE COPY REQUEST

Interference 105,004 (Nagumo)

A copy of Part E of this NOTICE DECLARING INTERFERENCE should be attached to this FILE COPY REQUEST, with a circle by hand around the patents and applications for which a copy of a file wrapper is desired.

To facilitate processing of this FILE COPY REQUEST, the following information should be included:

1. Charge fees to USPTO Deposit Account No. \_\_\_\_\_
2. Complete address, including street, city, state, zip code and telephone number (do not list a Post Office box inasmuch as file copies are sent via commercial overnight courier).

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Telephone, including area code: \_\_\_\_\_

Part J. Signature of administrative patent judge

  
Mark Nagumo  
Administrative Patent Judge

Enc:

Copy of STANDING ORDER

Copy of order used for setting times for taking action in  
the preliminary motion phase of the interference (ORDERPM6)

Copy of order used for setting times for taking action in  
the testimony and briefing phases of the interference  
(ORDERTE6)

Copy U.S. Patents 5,741,957, 6,013,857, and 6,140,552

Copy of claims of 08/246,259

DECLARE mn 007.wpm  
Revised September, 2000  
(replaces DECLARE.006.1)

cc (via Federal Express):

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(real party in interest:  
Pharming, B.V.)

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